Rights Against Debt Collection Abuse Handout

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

If you use credit cards, owe money on a personal loan, or are paying on a home mortgage, you are a "debtor." If you fall behind in repaying your creditors, or an error is made on your accounts, you may be contacted by a "debt collector." You should know that in either situation, the Fair Debt Collection Practices Act requires that debt collectors treat you fairly and prohibits certain methods of debt collection. Of course, the law does not erase any legitimate debt you owe. Here are some commonly asked questions about your rights under the Fair Debt Collection Practices Act.

What debts are covered?
Personal, family, and household debts are covered under the Act. This includes money owed for the purchase of an automobile, for medical care, or for charge accounts.

Who is a debt collector?
A debt collector is any person who regularly collects debts owed to others. This includes attorneys who collect debts on a regular basis.

How may a debt collector contact you?
A collector may contact you in person, by mail, telephone, telegram, or fax. However, a debt collector may not contact you at inconvenient times or places, such as before 8 a.m. or after 9 p.m., unless you agree. A debt collector also may not contact you at work if the collector knows that your employer disapproves of such contacts.

Can you stop a debt collector from contacting you?
You can stop a debt collector from contacting you by writing a letter to the collector telling them to stop. Once the collector receives your letter, they may not contact you again except to say there will be no further contact or to notify you that the debt collector or the creditor intends to take some specific action. Please note, however, that sending such a letter to a collector does not make the debt go away if you actually owe it. You could still be sued by the debt collector or your original creditor.

May a debt collector contact anyone else about your debt?
If you have an attorney, the debt collector must contact the attorney, rather than you. If you do not have an attorney, a collector may contact other people, but only to find out where you live, what your phone number is, and where you work. Collectors usually are prohibited from contacting such third parties more than once. In most cases, the collector may not tell anyone other than you and your attorney that you owe money.

What must the debt collector tell you about the debt?
Within five days after you are first contacted, the collector must send you a written notice telling you the amount of money you owe; the name of the creditor to whom you owe the money; and what action to take if you believe you do not owe the money.

May a debt collector continue to contact you if you believe you do not owe money?
A collector may not contact you if, within 30 days after you receive the written notice, you send the collection agency a letter stating you do not owe money. However, a collector can renew collection activities if you are sent proof of the debt, such as a copy of a bill for the amount owed.

What types of debt collection practices are prohibited?
Harassment.

Debt collectors may not harass, oppress, or abuse you or any third parties they contact. For example, debt collectors may not:

- use threats of violence or harm;
- publish a list of consumers who refuse to pay their debts (except to a credit bureau);
- use obscene or profane language; or
- repeatedly use the telephone to annoy someone.

False statements.

Debt collectors may not use any false or misleading statements when collecting a debt. For example, debt collectors may not:

- falsely imply that they are attorneys or government representatives;
- falsely imply that you have committed a crime;
- falsely represent that they operate or work for a credit bureau;
- misrepresent the amount of your debt;
- indicate that papers being sent to you are legal forms when they are not; or
- indicate that papers being sent to you are not legal forms when they are.

Debt collectors also may not state that:

- you will be arrested if you do not pay your debt;
- they will seize, garnish, attach, or sell your property or wages, unless the collection agency or creditor intends to do so, and it is legal to do so; or
- actions, such as a lawsuit, will be taken against you, when such action legally may not be taken, or when they do not intend to take such action.

Debt collectors may not:

- give false credit information about you to anyone, including a credit bureau;
- send you anything that looks like an official document from a court or government agency when it is not; or
- use a false name.

Unfair practices.

Debt collectors may not engage in unfair practices when they try to collect a debt. For example, collectors may not:

- collect any amount greater than your debt, unless your state law permits such a charge;
- deposit a post-dated check prematurely;
- use deception to make you accept collect calls or pay for telegrams;
- take or threaten to take your property unless this can be done legally; or
- contact you by postcard.

What control do you have over payment of debts?
If you owe more than one debt, any payment you make must be applied to the debt you indicate. A debt collector may not apply a payment to any debt you believe you do not owe.

What can you do if you believe a debt collector violated the law?
You have the right to sue a collector in a state or federal court within one year from the date the law was violated. If you win, you may recover money for the damages you suffered plus an additional amount up to $1,000. Court costs and attorney's fees also can be recovered. A group of people also may sue a debt collector and recover money for damages up to $500,000, or one percent of the collector's net worth, whichever is less.

Where can you report a debt collector for an alleged violation?
Report any problems you have with a debt collector to your state Attorney General's office and the Federal Trade Commission. Many states have their own debt collection laws, and your Attorney General's office can help you determine your rights.

To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

For further information or help feel free to make an appointment with a Legal Assistance Attorney, DSN 421-4152, Civ 0711-729-4152.

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References:

Federal Trade Commission website - www.ftc.gov/bcp/conline/pubs/credit/fdc.html
JAG website – www.jagcnet.army.mil/legal (Click on Consumer and Contract matter and then Fair Debt Collection)

15 USC § 1692 et seq.